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Department of Planning and Development

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Candace Havens
Director

Public Hearing Date:	November 15, 2011
Land Use Action Date:	November 22, 2011
Board of Aldermen Action Date:	December 5, 2011
90-Day Expiration Date:	December 5, 2011

DATE: November 10, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning^{ET}
Derek Valentine, Senior Planner

SUBJECT: Petition #137-10(3) SHARAD GANDBHIR petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for an accessory apartment in an existing detached structure and to allow three parking spaces closer than five feet from the street and within the front setback at 298-300 ADAMS STREET, Ward 1, on land known as SBL 12, 2,9C, containing 11,529 square feet of land in a district zoned MULTI-RESIDENCE 1, REF: Section 30-24, 30-23, 30-9(h)(1),30-19(g)(1)and(m) of the City of Newton Revised Zoning Ordinance, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The property is currently improved with a two-family residence and a detached accessory structure at the rear of the property. The detached structure has been vacant since at least 1987. It was at this time that a two-family residence was constructed at the front of the lot. The owner would like to renovate the rear structure and seeks a special permit to create an accessory apartment in that structure. This is the third time that the petitioner has submitted for a zoning review, incorporating departmental feedback with each subsequent submission. A public hearing was held on the most recent submission, which was withdrawn when the petitioner was not able to meet the requirements of the Newton Fire Department. The current proposal differs from prior submissions in that the rear structure will now have a fire suppression sprinkler system in lieu of direct access for emergency vehicles. The 3 foot wide concrete walkway from Adams Street to the rear structure will also be required to remain in place for emergency access.

Since the accessory structure is already in place, the Planning Department believes that reusing the existing structure will have a minimal impact on the neighborhood. The proposed reuse is preferable to allowing the structure to remain vacant while deteriorating to the point where it could potentially become a public nuisance or hazard. Furthermore, modest-sized units add to the diversity of housing options available in Newton.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When hearing this request, the Board should consider whether:

- 1) The proposed accessory apartment in a detached structure will not adversely affect the neighborhood for the following reasons:
 - a. The structure already exists and no significant exterior alterations are proposed.
 - b. Reusing the existing structure ensures that it will be maintained and will not become a nuisance.
 - c. The proposal is consistent with the *2007 Newton Comprehensive Plan*, as it will help to preserve the existing housing stock while increasing the diversity of housing options available in the City.
- 2) Locating more than two parking spaces within the front setback and three parking spaces less than five feet from the front lot line is appropriate since literal compliance with this requirement is not practicable due to the topography of the lot, which slopes steeply upward from the street.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on Adams Street between Washington Street and Wiltshire Road. It is within a vast area east of Adams Street zoned Multi-Residence 1. Across Adams Street from the subject site is a large area zoned Multi-Residence 2. Land use in the area is primarily single- and multi-family residential, with the exception of Our Lady of Help Christian Church to the west.

B. Site

The site consists of 11,529 square feet of land that slopes up from the street. A 3,312 square-foot duplex with garage-under parking is at the front of the property, facing Adams Street. Both units in the duplex have two-bedrooms. The lot is “L”-shaped and has an existing accessory building at the rear of the property, which has not been used for decades. A concrete walkway leads from the parking area near the street to the accessory structure.

III. PROJECT DESCRIPTION AND ANALYSIS



Existing two-family



Existing accessory structure at the rear of the property

A. Land Use

The property is being used as a two-family residence. By obtaining a special permit, the petitioner would like to maintain the two-family use in the main structure and add an accessory apartment in the accessory building. The owner will occupy one of the three units as his primary residence once renovations are complete and will be required to do so for the duration of the special permit.

B. Building and Site Design

There are no exterior changes proposed to the accessory building at this time. A bituminous pavement area to the northeast of the accessory building will be removed, decreasing the overall impervious coverage on site. This will bring the property in compliance with open space requirements.

The proposed accessory apartment will have 1,120 square feet of living space. There is a large storage room connected to the existing kitchen of the building. If this room were included in the floor area calculations, the structure would exceed the maximum square footage for an accessory apartment. The Commissioner of Inspectional Services has determined that if direct access from the living space is eliminated, this storage room does not need to be included in the square footage calculation. The Planning Department recommends a condition requiring direct access from the accessory unit to the storage area be eliminated prior to the issuance of a certificate of occupancy.

C. Parking and Circulation

The proposed use of the property requires a total of five parking spaces on-site. The petitioner will provide three parking spaces in the existing driveway in front of the main residential building and two parking spaces in the garages located under the two-family house. Three of these spaces will be located closer than five feet from the street and within the front yard setback. Relief is required to locate more than two parking spaces in the setback, and to locate any parking spaces within five feet of the pavement edge of the street.

D. Landscape Screening

Since the structure is already in place, the visual impact of this petition on the surrounding neighborhood will be negligible. No additional landscaping or screening is required.

IV. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-15): The Zoning Review Memorandum, dated October 6, 2011 (**SEE ATTACHMENT "A"**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting permission to renovate an accessory structure in order to create an accessory apartment. Newton Zoning Ordinance Section 30-9(h)(1) allows for this use by special permit. The petitioner also needs a waiver to locate three parking spaces within the front setback and less than five feet from the street under Sections 30-19(g)(1) and 30-19 (m).
- B. Comprehensive Plan: This petition will help to preserve the existing housing stock while increasing the diversity of housing options available in the City. It also allows adaptive reuse of an historic structure which might otherwise deteriorate through disuse.
- C. Engineering Review: Since there is a decrease in impervious coverage, site plan review by the Engineering Department is not required.
- D. Fire Department Review: The Newton Fire Department has approved the proposal

for fire access, provided that that pedestrian access to the rear structure be maintained and kept clear year round and that the accessory building be equipped with a fire suppression sprinkler system.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum (**SEE ATTACHMENT "A"**), the petitioners are seeking the following approvals or relief:

- Section 30-19(h)(1) to allow an accessory apartment in a detached structure
- Sections 30-19(g)(1) and 30-19(m) to allow more than two parking spaces in the front setback and parking spaces less than five feet from the street

VI. PETITIONERS' RESPONSIBILITIES

The proposed accessory apartment should be brought into compliance with all applicable safety and building codes.

ATTACHMENTS

- Attachment A:** Zoning Review Memorandum dated October 6, 2011
Attachment B: Zoning Map
Attachment C: Land Use Map
Attachment D: Draft Board Order #137-10(3)



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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ATTACHMENT A

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Candace Havens

ZONING REVIEW MEMORANDUM

Date: October 6, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Sharad Gandbhir, applicant
Bryan Parmenter, Surveyor on behalf of applicant
Ouida Young, Associate City Solicitor
John Lojek, Commissioner of Inspectional Services

RE: Request for an accessory apartment in a detached structure

Applicant: Sharad S. Gandbhir	
Site: 298R Adams Street	SBL: Section 12, Block 2, Lot 9C
Zoning: MR1	Lot Area: 11,529 square feet
Current use: Two-family residence with a vacant detached structure	Proposed use: Two-family residence with an accessory apartment in the detached structure

Background:

The subject property consists of an 11,529 square foot lot currently improved with a two-family residence and a detached structure at the rear of the lot. According to the applicant, the rear structure has been vacant for many years. The owner would like to renovate the existing detached structure to create an accessory apartment. Three previous zoning memos have been written on this same project (March 1, 2010, April 29, 2010 and December 1, 2011). However, the Fire Department required changes to the previous proposals to allow for fire truck access that required substantial alteration to the site plan and petition proposal. The Fire Department is now satisfied with the plans submitted by the applicant. This memo reflects these new plans and supersedes the previous memos.

The following review is based on plans and materials submitted to date as noted below.

Plans and materials reviewed:

- Architectural Drawings, signed by Anand Lele, engineer; dated 3/17/10
 - First Floor Plan
 - Second Floor Plan
- Existing Site Plan, signed by Bryan Parmenter, surveyor; dated 10/19/10
- Revised Proposed Site Plan, including zoning table, signed by Bryan Parmenter, surveyor; dated 9/28/11
- Letter from Paul Chagnon, Assistant Fire Chief, stating that the applicant's new plans conformed with Fire Department requirements, dated 8/16/11

Administrative Determinations:

1. The applicant proposes to renovate and re-inhabit an existing vacant structure as an accessory apartment. The applicant must obtain a special permit from the Board of Aldermen to allow an accessory apartment in a detached building in the MR1 zone, per Section 30-9(h)(1).
2. The existing accessory structure has been vacant and unused since at least 1987, the year in which the primary two-family residence at the front of the lot was constructed. The table below describes the dimensional requirements of an accessory structure. The structure is a legal nonconforming accessory structure, with 1,162 square feet of ground floor area where no more than 700 square feet are allowed. No changes to the structure are proposed.

§30-15(m)	Required/Allowed	Existing	Proposed
Ground floor area	700 square feet	1,162 square feet	No change
Setbacks—accessory structure	5 feet	9.1 feet	No change
Stories	1.5	1.5	No change
Height	22 feet	Not provided*	No change

* Not provided by applicant, as no changes are proposed

3. The subject site is comprised of a lot created after December 7, 1953 and is subject to post-1953 “new lot” density and dimensional controls applicable to lots in the MR1 zone.

MR1 Zone	Required/Allowed	Existing	Proposed
Lot size	10,000 sq. ft.	11,529 sq. ft.	No change
Frontage	80 feet	100.5 feet	No change
Max. Lot Coverage	30%	23.5%	No change
Min. Open Space	50%	49.2%	52.4%

The proposed site plan, including described removal of bituminous pavement, would make the site's open space conforming with the requirement of Section 30-15, Table 1.

4. Section 30-9(h)(1)(c) limits the size of space the accessory apartment to be a minimum of 400 square feet and a maximum of 1,200 square feet. The applicant submitted a floor plan that

calculates the square footage of the accessory apartment as 1,120 square feet. The plans designate an area of the existing accessory structure as “storage.” This storage cannot be included in the accessory apartment because the square footage would be higher than allowed by the Zoning Ordinance. Therefore, the door from the storage area to the proposed kitchen must be eliminated so that the storage is not internally connected to the apartment.

5. Section 30-19(d)(19) requires one on-site parking stall for an accessory apartment. The existing two-family dwelling on the front of the lot requires four parking spaces (two per dwelling unit per Section 30-19(d)(1)). Therefore, the total parking requirement for the lot is five spaces. Section 30-19(g)(1) allows one parking space per dwelling unit within the front or side setback. “However, in no case shall a parking stall be setback less than five (5) feet from the street.” The applicant submitted a site plan showing the proposed location of these required spaces. On the proposed plan, three parking spaces are located in the front setback, where two are allowed by-right. All three of these spaces are located less than five feet from the front property line. The applicant must obtain a special permit under Section 30-19(m) to allow the third parking stall within the front setback as well as to permit three parking spaces closer than five feet to the street.

6. See “Zoning Relief Summary” below.

Ordinance	Zoning Relief Summary	Action Required
	<i>Use</i>	
§30-9(h)(1)	Allow an accessory apartment in a detached structure	<i>SP per §30-24</i>
	<i>Parking</i>	
§30-19(g)(1), §30-19(m)	Allow more than two parking spaces in the front setback and three parking spaces less than five feet from the front lot line	<i>SP per §30-24</i>

Zoning

298-300 Adams St

*City of Newton,
Massachusetts*



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
 Mayor - Setti D. Warren
 GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100
 Feet

MAP DATE: February 10, 2011

ATTACHMENT B



Land Use 298-300 Adams St

*City of Newton,
Massachusetts*



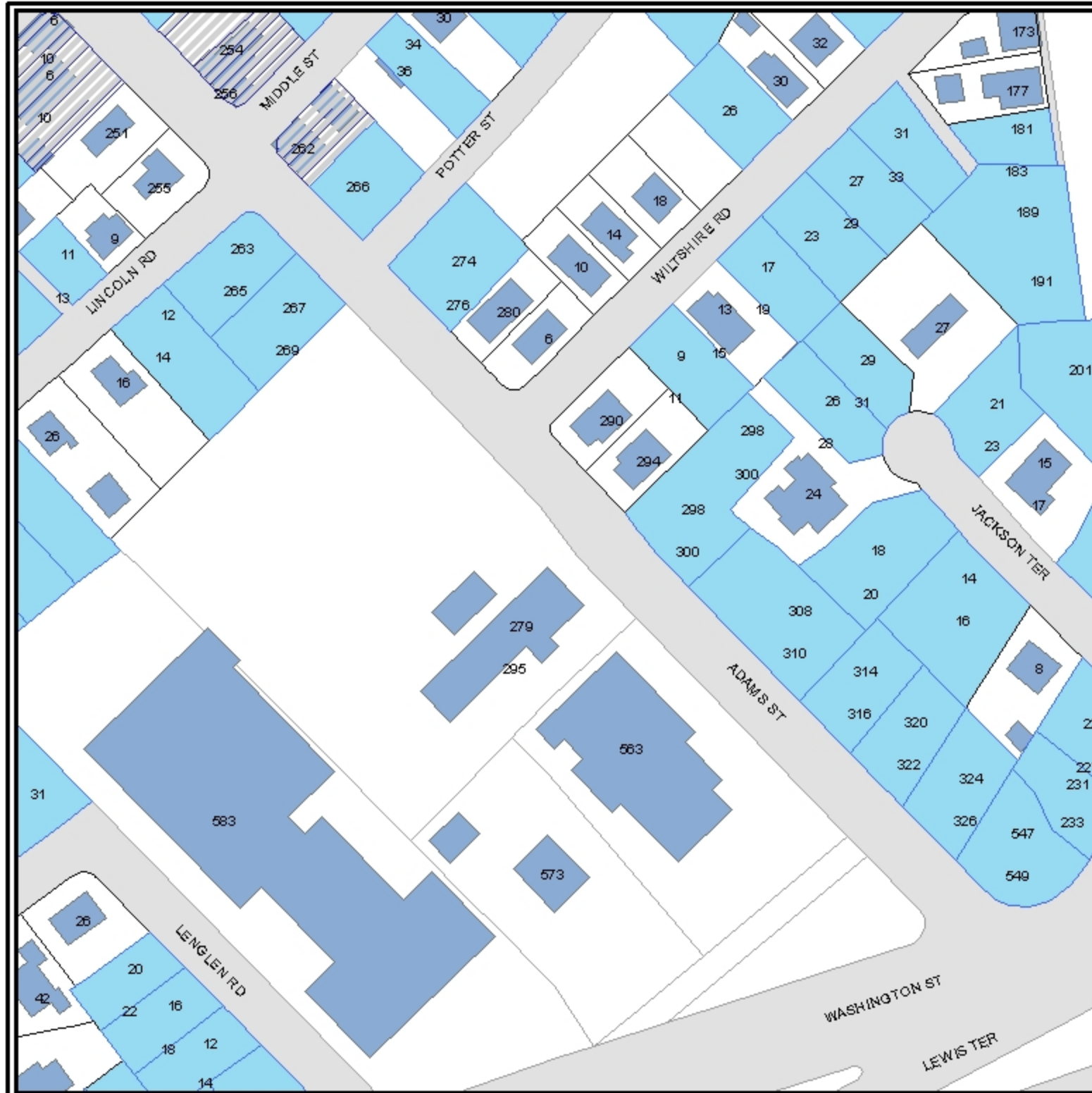
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CITY OF NEWTON, MASSACHUSETTS
 Mayor - Seth D. Warren
 GIS Administrator - Douglas Greenfield

0 25 50 75 100
 Feet

MAP DATE: February 10, 2011

ATTACHMENT C



ATTACHMENT D

DRAFT
#137-10(3)

CITY OF NEWTON IN BOARD OF ALDERMEN

November 15, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, hereby grants the following SPECIAL PERMIT/SITE PLAN APPROVAL for an accessory apartment in an existing detached structure, to locate three parking spaces closer than five feet from the street and within the front setback in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chairman, Alderman Ted Hess-Mahan.

The Board finds that:

- 1) The proposed accessory apartment in a detached structure will not adversely affect the neighborhood for the following reasons:
 - a. The structure already exists and no significant exterior alterations are proposed.
 - b. Reusing the existing structure ensures that it will be maintained and will not become a nuisance.
 - c. The proposal is consistent with the *2007 Newton Comprehensive Plan*, as it will help to preserve the existing housing stock while increasing the diversity of housing options available in the City.
- 2) Locating more than two parking spaces within the front setback and three parking spaces less than five feet from the front lot line is appropriate since literal compliance with this requirement is not practicable due to the topography of the lot, which slopes steeply upward from the street.

PETITION NUMBER: #137-10(3)

PETITIONER: Sharad Gandbhir

LOCATION: 298-300 Adams Street, Ward 1, on land known as Sec 12, Blk 2, Lot 9c, containing approx. 11,529 sf of land

OWNER: Sharad Gandbhir Trust

ADDRESS OF OWNER: P.O. Box 29, Templeton, MA 01468

TO BE USED FOR: Accessory Apartment

CONSTRUCTION: Wood-frame

EXPLANATORY NOTE: Section 30-9(h)(1) to allow an accessory apartment in a detached structure, and Sections 30-19(g)(1) and 30-19(m) to allow more than two parking spaces in the front setback and parking spaces less than five feet from the street.

ZONING: Multi-Residence 1 District.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping, and other site features shall be located and constructed consistent with the following plans:
 - “Plan of Land, 298-300, 298 R Adams Street”, dated September 28, 2010, and revised May 1, 2011, signed and stamped by Brian G. Parmenter, Professional Land Surveyor.
 - “298 R Adams Street Floor Plans”, dated March 17, 2010, signed and stamped by Anand D. Lele, Professional Engineer.
2. No building permit shall be issued pursuant to this SPECIAL PERMIT/SITE PLAN APPROVAL until the petitioner has:
 - a. Recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL.

- b. Filed a certified copy of such recorded notices with the Clerk of the Board, the Inspectional Services Department and the Department of Planning and Development.
- 3. No portion of the building pursuant to this SPECIAL PERMIT and SITE PLAN APPROVAL shall be occupied until the petitioner has:
 - a. Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development, a statement by a registered engineer certifying compliance with Condition #1.
 - b. Access from the accessory apartment to the unfinished storage room should be eliminated and this space shall not be used as part of the apartment.
 - c. The accessory apartment should be brought into compliance with all applicable building and safety codes, including the addition of fire sprinklers as required by the Newton Fire Department.
- 4. A 3 foot wide concrete walkway shall be installed on the west side of the property to provide emergency access to the accessory structure. This walkway shall be maintained in passable condition year round for the duration of this special permit.
- 5. The property must be owner-occupied and the owner must submit a yearly affidavit attesting to this condition per Section 30-8(d)(2) of the City Zoning Ordinance. The principal dwelling and the accessory dwelling shall not be held in separate ownership, and the owner must live in either the accessory apartment or the principal dwelling.